

ORIGINAL



0000010582

RECEIVED

LUBIN & ENOCH, P.C.
Nicholas J. Enoch
State Bar No. 016473
349 North Fourth Avenue
Phoenix, Arizona 85003
(602) 234-0008

2004 SEP 27 P 4:40

Attorney for Intervenors
IBEW Locals 387, 640, & 769

AZ CORP COMMISSION
DOCUMENT CONTROL

BEFORE THE ARIZONA

CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION
OF ARIZONA PUBLIC SERVICE
COMPANY FOR A HEARING TO
DETERMINE THE FAIR VALUE OF THE
UTILITY PROPERTY OF THE COMPANY
FOR RATEMAKING PURPOSES, TO FIX
A JUST AND REASONABLE RATE OF
RETURN THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN, AND FOR APPROVAL OF
PURCHASED POWER CONTRACT.

Docket No. E-01345A-03-0437

NOTICE OF FILING

Intervenors Local Unions 387, 640, and 769, International
Brotherhood of Electrical Workers, AFL-CIO, CLC, by and through
undersigned counsel, hereby provide notice of their filing of the
Direct Testimony of Robert E. DeSpain in this docket.

RESPECTFULLY SUBMITTED this 27th day of September, 2004.

LUBIN & ENOCH, P.C.

Nicholas J. Enoch, Esq.
Attorney for Intervenors

IBEW Locals 387, 640, & 769

Original and thirteen (13)
copies of the foregoing
filed this 27th day
of September, 2004, with:

Arizona Corporation Commission
Docket Control Center
1200 West Washington Street
Phoenix, Arizona 85007-2996

Arizona Corporation Commission

DOCKETED

SEP 27 2004

DOCKETED BY

1 Copies of the foregoing hand-delivered*/
mailed this same date to:

2 Lyn Farmer, Chief Administrative Law Judge*
3 Hearing Division
4 Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

5 Christopher C. Kempsey, Chief Counsel*
6 Arizona Corporation Commission, Legal Division
1200 West Washington
7 Phoenix, Arizona 85007

8 Ernest G. Johnson, Director*
9 Arizona Corporation Commission, Utilities Division
1200 West Washington
Phoenix, Arizona 85007

10 Thomas L. Mumaw, Esq.
11 Pinnacle West Capital Corp.
P.O. Box 53999 MS 8695
12 Phoenix, Arizona 85072-3999
Co-counsel for Applicant

13 Jeffrey B. Guldner, Esq.
14 Snell & Wilmer L.L.P.
400 East Van Buren
15 Phoenix, Arizona 85004-2202
Co-counsel for Applicant

16 Jana VanNess, Manager
17 Regulatory Compliance
Arizona Public Service Co.
18 P.O. Box 53999 MS 9905
Phoenix, Arizona 85072-3999
19 Applicant

20 Jon Poston
AARP Electric Rate Project
21 6733 East Dale Lane
Cave Creek, Arizona 85331
22 Co-representative for Intervenor AARP

23 Coralette Hannon
AARP Department of State Affairs
24 6705 Reedy Creek Road
Charlotte, North Carolina 28215
25 Co-representative for Intervenor AARP

26 Bill Murphy
Murphy Consulting
27 2422 East Palo Verde Drive
Phoenix, Arizona 85016
28 Consultant for Arizona Cogeneration Assn.

1 Cynthia Zwick
Arizona Community Action Association
2 2627 North 3rd Street, Suite 2
Phoenix, Arizona 85004
3 Executive Director for Intervenor ACAA

4 S. David Childers, Esq.
Low & Childers, P.C.
5 2999 North 44th Street, Suite 250
Phoenix, Arizona 85018-7247
6 Co-counsel for Intervenor ACPA

7 James M. Van Nostrand, Esq.
Stoek Rives
8 900 S.W. Fifth Avenue, Suite 2600
Portland, Oregon 97204
9 Co-counsel for Intervenor ACPA

10 Greg Patterson
Arizona Competitive Power Alliance
11 5432 East Avalon
Phoenix, Arizona 85018
12 Executive Director for Intervenor ACPA

13 C. Webb Crockett, Esq.
Fennemore Craig, P.C.
14 3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012
15 Attorney for Intervenor AECC & Phelps Dodge

16 Walter W. Meek, President
Arizona Utility Investors Association
17 2100 North Central Avenue, Suite 210
Phoenix, Arizona 85004
18 Intervenor AUIA

19 Robert W. Geake, Esq.
Arizona Water Company
20 P.O. Box 29006
Phoenix, Arizona 85038-9006
21 Attorney for Intervenor Arizona Water Co.

22 Marvin S. Cohen, Esq.
Sacks Tierney, P.A.
23 4250 North Drinkwater Blvd., 4th Floor
Scottsdale, Arizona 85251-3693
24 Attorney for Intervenor Constellation and Strategic

25 Michael A. Curtis, Esq.
Martinez & Curtis, P.C.
26 2712 North 7th Street
Phoenix, Arizona 85006-1090
27 Attorney for Intervenor Dome Valley Energy & Town of Wickenburg

28 ///

1 Daniel W. Douglass, Esq.
6303 Owensmouth Avenue, 10th Floor
2 Woodland Hills, California 91367-2262

3 Major Allen G. Erickson
AFCEA/ULT
4 139 Barnes Drive, Suite 1
Tyndall AFB, Florida 32403-5319
5 Co-counsel for Intervenor Federal Executive Agencies

6 Rebecca C. Salisbury, Esq.
56th Fighter Wing JA
7 7383 North Litchfield Road
Luke AFB, Arizona 85309-1540
8 Co-counsel for Intervenor Federal Executive Agencies

9 J. William Moore, Esq.
1144 East Jefferson
10 Phoenix, Arizona 85034
Co-counsel for Intervenor Kroger

11 Michael L. Kurtz, Esq.
12 Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 2110
13 Cincinnati, Ohio 45202
Co-counsel for Intervenor Kroger

14 Jay L. Shapiro, Esq.
15 Fennemore Craig, P.C.
3003 North Central Avenue, Suite 2600
16 Phoenix, Arizona 85012
Attorney for Intervenor Panda Gila River, L.P.

17 Jay I. Moyes, Esq.
18 Moyes Storey
3003 North Central Avenue, #1250
19 Phoenix, Arizona 85012
Co-counsel for Intervenor PPL Sundance & PPL Southwest

20 Jesse A. Dillon, Esq.
21 PPL Services Corporation
Two North Ninth Street
22 Allentown, Pennsylvania 18101
Co-counsel for Intervenor PPL Sundance & PPL Southwest

23 Scott S. Wakefield, Chief Counsel
24 Residential Utility Consumer Office
1110 West Washington, Suite 220
25 Phoenix, Arizona 85007
Attorney for Intervenor RUCO

26 ///

27 ///

28 ///

1 Andrew W. Bettwy, Esq.
Southwest Gas Corporation
2 P.O. Box 98510
Las Vegas, Nevada 89193-8510
3 Attorney for Intervenor Southwest Gas

4 Lawrence V. Robertson, Jr., Esq.
Munger Chadwick PLC
5 333 North Wilmot, Suite 300
Tucson, Arizona 85711
6 Attorney for Intervenor SPG, MP, & BPS

7 Jeff Schlegel
1167 West Samalayucca Drive
8 Tucson, Arizona 85704
Arizona Representative for Intervenor SWEEP

9 Raymond S. Heyman, Esq.
10 Roshka, Heyman & Dewulf
400 East Van Buren Street, Suite 800
11 Phoenix, Arizona 85004
Co-counsel for Intervenor UniSource

12 Deborah R. Scott, Esq.
13 UniSource Energy Services
One South Church Street, Suite 200
14 Tucson, Arizona 85702
Co-counsel for Intervenor UniSource

15 Timothy M. Hogan, Esq.
16 Arizona Center for Law in the Public Interest
202 East McDowell Road, Suite 153
17 Phoenix, Arizona 85004
Attorney for Intervenor WRA and SWEEP

18 David Berry
19 Western Resource Advocates
P.O. Box 1064
20 Scottsdale, Arizona 85252-1064
Intervenor WRA

21 Eric C. Guidry
22 Western Resource Advocates
2260 Baseline Road, Suite 200
23 Boulder, Colorado 80302
Intervenor WRA

24
25 
26

F:\Law Offices\2004\IBEW - Az St Cnsl\pleadings\2004-09-01 - not filing direct testimony - DeSpain.wpd

Testimony of
Robert E. DeSpain

E-01345A-03-0437

1 Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A1. Robert E. DeSpain. My business address is 5818 North 7th
3 Street, Suite 201, Phoenix, Arizona 85014.

4 Q2. PLEASE DESCRIBE YOUR RECENT EMPLOYMENT.

5 A2. I am the Business Manager/Financial Secretary for Intervenor
6 Local Union 387, International Brotherhood of Electrical
7 Workers, AFL-CIO, CLC ("IBEW Local 387"). The position of
8 Business Manager/Financial Secretary is an elected union
9 position, and I was elected to my present position earlier
10 this year. Because all IBEW local unions have a person
11 holding the position called "President," is common for
12 persons outside of our organization to believe that the
13 "President" is the principal officer of the Local. That is
14 not the case. Article 17, §§ 4 and 8 of the Constitution of
15 the International Brotherhood of Electrical Workers, AFL-CIO
16 clearly states that the Business Manager/Financial Secretary
17 is the "principal officer" of any IBEW Local Union.

18 Prior to my recent election, I was employed by Arizona
19 Public Service Company ("APS") for twenty-six (26)
20 years in a variety of bargaining unit positions, the
21 last of which was as a Chromemoly Welder at the Cholla
22 Power Plant. While employed at APS, I was a very
23 active member of IBEW Local 387, including having been
24 a member of IBEW Local 387's Executive Board for many
25 years.

26 Q3. WHO IS IBEW LOCAL 387?

27 A3. IBEW Local 387 is a labor organization which, for the most
28 part, represents non-managerial utility workers throughout
most of the State of Arizona. For example, IBEW Local 387
is the duly elected and recognized exclusive bargaining
agent for a substantial number of employees of Arizona Water
Company, Graham County Electric Cooperative, Inc., Navopache
Electric Cooperative, Inc., and the Santa Cruz District of
UniSource Energy Corporation ("UniSource") f/k/a Citizens
Communications Company. IBEW Local 387 is also the duly
elected and recognized exclusive bargaining agent for
approximately two-thousand (2,000) employees of APS. IBEW
Local 387 and APS have entered into a long series of
collective bargaining agreements dating back to 1945
concerning rates of pay, wages, hours of employment, and
other terms and conditions of employment.

29 Q4. DO YOU BELIEVE APS IS A RESPONSIBLE CORPORATE CITIZEN?

30 A4. Absolutely. While by no means perfect, the relationship
31 between IBEW Locals 387 and APS is one which is mature and
32 stable. It is clear that this stability has enured to the
33 benefit of APS, its employees, and customers. In my
34 opinion, the importance of the relationship between a public

1 service corporation and its employees cannot be overstated.
2 I do not believe that my opinion in this regard is mine
3 alone.

4 During a recent hearing before this Commission *In the matter*
5 *of UniSource's Reorganization*, Docket No. E-04230A-03-0933,
6 UniSource Chief Executive Officer James S. Pignatelli
7 recognized that the harmonious relationship between the IBEW
8 Locals and UniSource inevitably leads to a stable work
9 environment which, in turn, helps the preservation of health
10 and safety for the employees of UniSource. Mr. Pignatelli
11 defined the public interest as, *inter alia*, providing a safe
12 and secure working environment for the employees.

13 Mr. Pignatelli also agreed with the notion that acrimonious
14 relations between a public service corporation and the
15 certified representative of its employees will almost
16 certainly hinder the company's ability to provide safe,
17 reasonable, and adequate service. He also acknowledged that
18 an acrimonious relationship may also impair the ability of
19 the public service corporation to attract capital at fair
20 and reasonable terms. I share Mr. Pignatelli's views in
21 this regard.

22 **Q4. WHO IS IBEW LOCAL 640?**

23 A4. Local Union 640, International Brotherhood of Electrical
24 Workers, AFL-CIO, CLC ("IBEW Local 640") is a sister local
25 of IBEW Local 387. While IBEW Local 640 represents some
26 employees outside of the electrical/utility industry, it
27 would be fair to say that IBEW Local 640's primary interest
28 in this case is in its role as the supplier of highly-
skilled employees to the Palo Verde Nuclear Generating
Station ("Palo Verde") through an International Maintenance
Agreement. This agreement was entered into between Bechtel
Power Corporation ("Bechtel"), the contractor for APS's
construction workers at Palo Verde, and the Building and
Construction Trades Department, AFL-CIO, its constituent
International Unions, and their affiliated Local Unions.
Bechtel has recognized the Unions as the sole bargaining
agents for all employees in the classifications covered in
their respective agreements that will be working on the
project.

Q5. WHO IS IBEW LOCAL 769?

A5. Like IBEW Local 640, Local Union 769, International
Brotherhood of Electrical Workers, AFL-CIO, CLC ("IBEW Local
769") is another of our sister locals. IBEW Local 769 is a
labor organization which represents non-managerial utility
workers throughout the State of Arizona. For example, IBEW
Local 769 is the duly elected and recognized exclusive
bargaining agent for a substantial number of employees of
the Central Arizona Division of Southwest Gas Corporation
and of the Mohave County Electric Operations of UniSource.

1 As a union which represents a large number of employees
2 involved in the outside line construction industry, IBEW
3 Local 769 also represents employees of subcontractors
4 working for APS. For example, IBEW Local 769 has recently
5 provided outside line construction work for APS through
6 Argent Construction, Inc., Par Electrical Contractors, Inc.,
Southwest Energy Solutions, Inc., and Sturgeon Construction,
Inc. At any given time, IBEW Local 769 will have anywhere
from five (5) to two-hundred (200) of its bargaining unit
employees working for subcontractors of APS.

7 **Q6. ARE IBEW LOCALS 387, 640, AND 769 SEPARATE LEGAL ENTITIES?**

8 A6. Yes. In addition, it is well-settled that our International
9 Union and its constituent local unions, including my own,
10 are also separate legal entities. That being said, the
11 various IBEW Local Unions in the State of Arizona meet on a
regular basis to discuss issues of mutual concern and,
general speaking, we are familiar with and supportive of the
actions of each other.

12 **Q7. DO IBEW LOCALS 387, 640, AND 769 HAVE A STAKE IN THIS
13 PROCEEDING OTHER THAN IN THEIR CAPACITY AS LABOR
14 ORGANIZATIONS?**

15 A7. Yes. As building owners in APS's service territory, each of
16 the Locals fall within the definition of a "small-business"
customer under the E-32 Rate Plan - i.e., the standard plan
for APS commercial customers who have a demand of less than
3,000 kilowatts a month.

17 **Q8. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

18 A8. I am testifying in support of the Proposed Settlement
document in Docket No. E-01345A-03-0437.

19 **Q9. WHY IS THE PROPOSED SETTLEMENT IN THE PUBLIC INTEREST?**

20 A9. The proposed settlement was achieved through a collaborative
21 process involving an extremely diverse set of parties. That
22 being said, any public service corporation is entitled to a
fair rate of return on the fair value of its property, no
23 more and no less. IBEW Locals 387, 640, and 769 firmly
believe that the proposed settlement meets this test.

24 As you know, Article XV, §3 of the Arizona Constitution
25 expressly states that the interests of public service
employees are on par with those of patrons. It reads as
follows:

26 The corporation commission shall have full
27 power to, and shall... make reasonable rules,
regulations, and orders, by which such
[public service] corporations shall be
28 governed in the transaction of business

1 within the State, and... make and enforce
2 reasonable rules, regulations, and orders for
3 the convenience, comfort, and safety, and the
preservation of the health, of the **employees**
and patrons of such corporations[.]

4 It goes without saying that it costs a substantial
5 amount of money for a public service corporation to
6 hire, train, and maintain a highly skilled work force.
7 Similarly, it costs a great deal of money for any
8 public service corporation to preserve the safety and
9 health of its employees and patrons. Unlike APS's
rates, the wages paid by APS to its employees and
indirectly the employees of its contractors have
continued to rise over the past thirteen (13) years.
IBEW Locals 387, 640, and 769 believe that the rate
relief proposed in the settlement will help ensure that
APS will be able to meet its commitments to its
employees and customers in the years to come.

11 **Q10. DOES THIS CONCLUDE YOUR TESTIMONY?**

12 **A10. Yes.**

13 F:\Law Offices\2004\IBEW - Az St Cnsl\pleadings\2004-09-23 - draft testimony of DeSpain.wpd